

IN THE  
**United States Court of Appeals for the Ninth Circuit**

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JOHN TEIXEIRA; STEVE NOBRIGA; GARY GAMAZA; CALGUNS  
FOUNDATION, INC., (CGF); SECOND AMENDMENT  
FOUNDATION, INC., (SAF); CALIFORNIA ASSOCIATION OF  
FEDERAL FIREARMS LICENSEES, (CAL-FFL),  
*Plaintiffs-Appellants,*  
*v.*

COUNTY OF ALAMEDA; ALAMEDA COUNTY BOARD OF  
SUPERVISORS, as a policy making body; WILMA CHAN, in  
her official capacity; NATE MILEY, in his official capacity;  
KEITH CARSON, in his official capacity,  
*Defendants-Appellees.*

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**UNOPPOSED MOTION OF DEFENDANTS-APPELLEES FOR A  
FURTHER EXTENSION OF TIME TO FILE THEIR PETITION  
FOR REHEARING EN BANC**

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Pursuant to Federal Rules of Appellate Procedure 26(b) and 40(a)(1), Defendants-Appellees County of Alameda, et al. (“Alameda County”) respectfully request a further extension of 21 days to file their Petition for Rehearing En Banc, to and including Thursday, July 21, 2016. Counsel for Plaintiffs-Appellants John Teixeira, et al. (“Teixeira”) has stated that they do not oppose this motion in light of undersigned counsel’s recent association with this case.

In support of its motion, Alameda County states as follows:

1. This case involves an appeal concerning the constitutionality of an Alameda County, California zoning ordinance regulating the location of new gun stores. The County's Petition for Rehearing En Banc is currently due on June 30, 2016.

2. This Court previously granted the County a 30-day extension to June 30, 2016. The additional 21-day extension sought here would cause Alameda County's Petition for Rehearing En Banc to be due on Thursday, July 21, 2016.

3. The County recently retained undersigned counsel to prepare its En Banc Petition. Counsel is new to this case and requires a brief additional period to become familiar with the case, to coordinate with amici and to prepare the Petition.

4. The extension is also made necessary by the press of business on several matters before this Court and others. Lead appellate counsel Robert Loeb has other deadlines in this Court and other Courts of Appeals. Before this Court, counsel has an oral argument on July 7 in *Farhang v. IIT*, No. 14-15601; and an opening brief due on July 8 in *Castillo v. Lynch*, No. 14-73017. Before other courts, counsel has an amicus brief due on June 14 in *Browning-Ferris*

*Industries v. NLRB*, D.C. Cir. No. 16-1028; an oral argument on June 15 in *US Bank Nat'l Ass'n v. DLJ Mortg. Capital, Inc.*, NY App. Div. 1st Dep't, Index Nos. 652344/12 et al.; and an Opposition to a Petition for a Writ of Certiorari due on June 22 in *R.J. Reynolds Tobacco Co. v. Kane*, S. Ct. No. 15-1299.

5. Counsel has exercised diligence in this case and, barring unforeseen circumstances, will file the Petition within the time requested and will not seek further extensions of time.

6. This motion is being filed more than seven calendar days before the current due date for the Petition.

Respectfully submitted,

/s/Robert M. Loeb

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*Counsel for Defendants-Appellees*

June 13, 2016

IN THE  
**United States Court of Appeals for the Ninth Circuit**

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JOHN TEIXEIRA; STEVE NOBRIGA; GARY GAMAZA; CALGUNS  
FOUNDATION, INC., (CGF); SECOND AMENDMENT  
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COUNTY OF ALAMEDA; ALAMEDA COUNTY BOARD OF  
SUPERVISORS, as a policy making body; WILMA CHAN, in  
her official capacity; NATE MILEY, in his official capacity;  
KEITH CARSON, in his official capacity,  
*Defendants-Appellees.*

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**DECLARATION OF ROBERT LOEB IN SUPPORT OF  
UNOPPOSED MOTION OF DEFENDANTS-APPELLEES FOR AN  
EXTENSION OF TIME TO FILE THEIR PETITION FOR  
REHEARING EN BANC**

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I, Robert Loeb, hereby declare:

1. I am a member of the firm Orrick, Herrington & Sutcliffe LLP, counsel for Defendants-Appellees Alameda County, et al. I have personal knowledge of the matters set forth herein.
2. I submit this declaration in support of Defendants-Appellees' motion for a 21-day extension of time in which to file their Petition for Rehearing En Banc. This is Defendants-Appellees' second request for an extension.

3. On June 7, 2016, the County of Alameda hired Orrick to prepare the En Banc Petition.

4. The extension is made necessary by the complexity of the constitutional question presented in this case, and the press of business on several matters before this Court and others.

5. I am lead appellate counsel for Petitioner, and have other deadlines in the Courts of Appeals and state appellate courts. Before this Court, I have an oral argument on July 7 in *Farhang v. IIT*, No. 14-15601; and an opening brief due on July 8, 2016 in *Castillo v. Lynch*, No. 14-73017. Before other courts, I have an amicus brief due on June 14 in *Browning-Ferris Industries v. NLRB*, D.C. Cir. No. 16-1028; an oral argument on June 15 in *US Bank Nat'l Ass'n v. DLJ Mortg. Capital, Inc.*, NY App. Div. 1st Dep't, Index Nos. 652344/12 et al.; and an Opposition to a Petition for a Writ of Certiorari due on June 22 in *R.J. Reynolds Tobacco Co. v. Kane*, S. Ct. No. 15-1299.

6. Counsel for Defendants-Appellees has exercised diligence in this case and, barring unforeseen circumstances, will be able to file the Petition for Rehearing En Banc within the time requested.

7. Donald Kilmer, Jr., counsel for Plaintiffs-Appellants John Teixeira, et al., has stated that Plaintiffs-Appellants do not oppose this motion.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed On: June 13, 2016

/s/ Robert Loeb

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## CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system on June 13, 2016.

I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

ORRICK, HERRINGTON & SUTCLIFFE LLP

/s/ Robert M. Loeb

Robert M. Loeb

*Counsel for Defendants-Appellees*